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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)													
		03226/341001; SUN040193													
	Application Number	Filed													
	10/713,412-Conf. #7003	November 14, 2003													
	First Named Inventor Bryan M. Cantrill														
	Art Unit	Examiner													
	2191	P. H. Nguyen													
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table><tbody><tr><td><input type="checkbox"/></td><td>applicant /inventor.</td><td>_____ /Robert P. Lord/ Signature</td></tr><tr><td><input type="checkbox"/></td><td>assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td><td>_____ Robert P. Lord Typed or printed name</td></tr><tr><td><input checked="" type="checkbox"/></td><td>attorney or agent of record. Registration number 46,479</td><td>_____ (713) 228-8600 Telephone number</td></tr><tr><td><input type="checkbox"/></td><td>attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</td><td>_____ September 6, 2007 Date</td></tr></tbody></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of 1 forms are submitted.</p>				<input type="checkbox"/>	applicant /inventor.	_____ /Robert P. Lord/ Signature	<input type="checkbox"/>	assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	_____ Robert P. Lord Typed or printed name	<input checked="" type="checkbox"/>	attorney or agent of record. Registration number 46,479	_____ (713) 228-8600 Telephone number	<input type="checkbox"/>	attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____	_____ September 6, 2007 Date
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Bryan M. Cantrill

Confirmation No.: 7003

Application No.: 10/713,412

Art Unit: 2191

Filed: November 14, 2003

Examiner: P. H. Nguyen

For: METHOD AND APPARATUS FOR CACHING
PREDICATES IN A TRACING FRAMEWORK

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Claims 1-28 are pending. Claims 1-23 and 28 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,807,583 B2 ("Hrischuk"). Claims 24-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hrischuk in view of U.S. Patent 5,894,575 ("Levine"). Applicant submits that the Examiner has not satisfied the requirements of MPEP §§ 2131 and 2143. Specifically, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131. Further, to establish a *prima facie* case of obviousness, "the prior art reference (or references when combined) must teach or suggest all the claim limitations." MPEP § 2143.

Independent claim 1 recites, in part, "*caching the first predicate in a predicate cache associated with the thread, based on the evaluating of the first predicate and cacheability of the first predicate; and transferring control to the thread, based on the caching.*" Independent claim 28 includes substantially similar limitations.

1. The Examiner is mischaracterizing Hrischuk to describe “caching the first predicate.”

The Examiner is suggesting that Hrischuk describes “caching the first predicate” at col. 27, lines 3-4 and col. 28, lines 40-42. However, Hrischuk merely describes recording events in a buffer, and Tables 5-6 describe predicates used to determine which events to record. Hrischuk’s predicates are evaluated based on an object’s state. For example, if the variables j and j_1 are equal, then the predicate “ $j = j_1$ ” is true. The Examiner is suggesting that the predicates themselves are also recorded in the buffer. *See* Office Action dated June 6, 2007, pp. 3, 5-6.

To the contrary, Hrischuk states that Table 5 “should be interpreted as follows: ‘if the precondition values of object i_1 are met, then execute the instrumentation primitives to record the identified events.’” Hrischuk, col. 27, line 66 – col. 28, line 2. In other words, Tables 5-6 merely provide *listings* of predicates that are evaluated to determine which *events* to record in the buffer. The predicates themselves are *not* recorded in the buffer along with the events. In maintaining this rejection, the Examiner is mischaracterizing Hrischuk, which is improper.

2. The Examiner is reading out an express limitation of “caching the first predicate ... based on evaluating of the first predicate and cacheability of the first predicate.”

Even assuming *arguendo* that Hrischuk describes “caching the first predicate,” the claims explicitly require caching the predicate based on “*based on ... cacheability of the first predicate.*” “Cacheability” refers to whether a given predicate may be cached, and may depend on various factors. *See, e.g.,* Specification as filed, [0023]. The claims explicitly require that such factors be considered. The Examiner has suggested that Hrischuk describes these limitations at col. 28, lines 40-45. *See* Office Action dated June 6, 2007, pp. 4-6.

To the contrary, Hrischuk describes predicates that must be true for *events* to be recorded. In view of Applicant's explicit definition of the term "predicate" (*see* Specification as filed, [0017]), criteria for recording an *event* cannot possibly be equivalent to criteria for recording a *predicate*. Further, the claims require that the criteria include *cacheability* of the predicate. The Examiner has failed to show where Hrischuk describes any such criteria. In fact, Hrischuk is silent with respect to determining *cacheability* of predicates. In maintaining this rejection, the Examiner is reading out an express limitation of the claims, which is improper.

3. The Examiner is mischaracterizing Hrischuk to describe "transferring control to the thread, based on the caching."

Even assuming *arguendo* that Hrischuk describes "caching a predicate..." as discussed above, the claims further require transferring control to the thread *based on the caching*. The Examiner has suggested that Hrischuk describes these limitations in Table 3 as "nextTask(e_1 , e_2)."
See Office Action dated June 6, 2007, pp. 4, 6.

To the contrary, Hrischuk states that Table 3 "shows identifying operators that are used to add edges" to a "scenario event graph model." *See* Hrischuk, col. 24, lines 22-45. Adding edges to a graph is not equivalent to transferring control to a thread. Nonetheless, even assuming *arguendo* that adding an edge to a graph is equivalent to transferring control to a thread, Hrischuk is silent with respect to transferring control "*based on the caching*." In maintaining this rejection, the Examiner is mischaracterizing Hrischuk and reading out an express limitation of the claims, which is improper.

4. Levine does not supply what Hrischuk lacks.

As discussed above, Hrischuk does not describe each and every element of independent claims 1 and 28. Further, while Levine is generally directed to tracing, Levine is silent with respect to evaluating or caching predicates. Therefore, Levine cannot possibly supply what Hrischuk lacks. Accordingly, Hrischuk and Levine do not teach or suggest all the limitations of independent claims 1 and 28, or any of the dependent claims.

5. The Examiner has not satisfied the requirements of MPEP §§ 2131 and 2143.

In view of the above, the Examiner has clearly not satisfied the requirements of MPEP §§ 2131 and 2143. Hrischuk and Levine, whether viewed separately or in combination, do *not* teach or suggest all the limitations of independent claims 1 and 28. Claims 2-27 depend, directly or indirectly, from independent claim 1. Therefore, Hrischuk and Levine also do not teach or suggest all the limitations of claims 2-27. Accordingly, a favorable decision from the panel is respectfully requested.

Dated: September 6, 2007

Respectfully submitted,

By /Robert P. Lord/
Robert P. Lord
Registration No.: 46,479
OSHA · LIANG LLP
1221 McKinney St., Suite 2800
Houston, Texas 77010
(713) 228-8600
(713) 228-8778 (Fax)
Attorney for Applicant

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